

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Direct Capitol Corporation

v.

Case No. 16-cv-366-SM

American Tank Company, Inc.
and Lawrence Romero

O R D E R

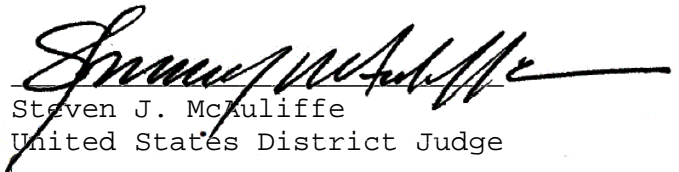
No objection having been filed, I herewith approve the Report and Recommendation of Magistrate Judge Andrea K. Johnstone dated October 26, 2017, for the reasons set forth therein. The court adds only that the contract ("Master Agreement", Para. 15) provides for the recovery of fees, presumably including attorney's fees, associated with necessary collection efforts.

Direct Capitol Corporation's (DCC) Motion for Default Judgment (doc. no. 14) is hereby granted in part as to its breach of contract claims against American Tank Company and Lawrence Romero, awarded damages in the amount of \$225,011.97, and awarded costs in the amount of \$552.51. DCC's request for attorney's fees is denied without prejudice to refiling a new motion with the appropriate supporting documentation within fifteen (15) days of the date of this order.

"`[O]nly those issues fairly raised by the objections to

the magistrate's report are subject to review in the district court and those not preserved by such objection are precluded on appeal.'" School Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (quoting Keating v. Secretary of Health & Human Servs., 848 F.2d 271, 275 (1st Cir.1988)); see also United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986) (after proper notice, failure to file a specific objection to magistrate's report will waive the right to appeal).

Additionally, finding that the petitioner has failed to make a substantial showing of the denial of a constitutional right, the court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Rule 11, Rules Governing Habeas Corpus Cases Under Section 2254; First Cir. LR 22.0.


Steven J. McMuliffe
United States District Judge

Date: November 15, 2017

cc: Thomas K. McCraw, Jr., Esq.